

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

HASSAN MOHAMED,

Plaintiff,

-v-

9:14-cv-01389

D. PHELIX,

Defendant

THOMAS J. McAVOY,
Senior United States District Judge

DECISION & ORDER

I. INTRODUCTION

This pro se action brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. Thérèse Wiley Dancks, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). In her June 13, 2017 Order and Report-Recommendation, dkt. # 35, Magistrate Judge Dancks recommends that defendant D. Phelix's motion for summary judgment be granted. Id. pp. 33. Plaintiff Hassan Mohamed filed objections to the Order and Report-Recommendation. See Obj., dkt. # 38.

II. STANDARD OF REVIEW

When objections to a magistrate judge's report and recommendation are lodged, the district court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28

U.S.C. § 636(b)(1); see also United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997) (The Court must make a *de novo* determination to the extent that a party makes specific objections to a magistrate's findings.). "[E]ven a *pro se* party's objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate's proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument." Machicote v. Ercole, 2011 WL 3809920, at * 2 (S.D.N.Y., Aug. 25, 2011)(citations and interior quotation marks omitted); DiPilato v. 7-Eleven, Inc., 662 F. Supp.2d 333, 340 (S.D.N.Y. 2009)(same).

General or conclusory objections, or objections which merely recite the same arguments presented to the magistrate judge, are reviewed for clear error. Farid v. Bouey, 554 F. Supp. 2d 301, 306 n. 2 (N.D.N.Y. 2008); see Frankel v. N.Y.C., 2009 WL 465645 at *2 (S.D.N.Y. Feb. 25, 2009). After reviewing the report and recommendation, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b).

III. DISCUSSION

Having considered Plaintiff's objections and having completed a *de novo* review of the issues raised by the objections, the Court has determined to adopt Magistrate Judge Dancks's recommendations for the reasons stated in her thorough report.

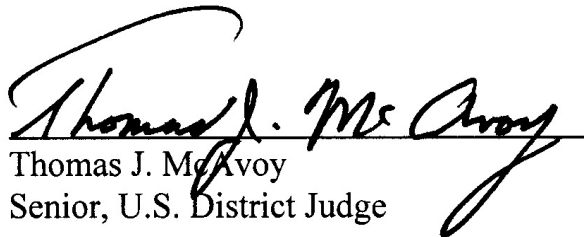
IV. CONCLUSION

Accordingly, the Court accepts and adopts Magistrate Judge Dancks's Order and Report-Recommendation (Dkt. # 35) in its entirety. Defendant D. Phelix's motion for

summary judgement, dkt. #32, is **GRANTED**, and the Second Amended Complaint, dkt. #18, is **DISMISSED**. The Clerk of the Court may enter final judgment and close the file in this matter.

IT IS SO ORDERED.

Dated: September 28, 2017



Thomas J. McAvoy
Senior, U.S. District Judge